

PAULINE C. LEBSACK

IBLA 80-713

Decided October 16, 1980

Appeal from a decision of the Utah State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer U 45454.

Affirmed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Known Geological Structure--Oil and Gas Leases: Noncompetitive Leases

Lands within a known geologic structure of a producing oil or gas field may be leased only after competitive bidding under the provisions of 43 CFR Part 3120, and a noncompetitive oil and gas lease offer field for such lands is properly rejected where during the pendency thereof the land is determined to be within the known geologic structure of a producing oil or gas field. The fact that the noncompetitive offeror followed all of the applicable rules and regulations in making her offer does not vitiate this conclusion.

APPEARANCES: Pauline C. Lebsack, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

On January 21, 1980, the Utah State Office, Bureau of Land Management (BLM), announced that a parcel of land, designated UT-45454, had become subject to simultaneous filings of offers to lease for oil and gas under the Mineral Leasing Act of 1920, as amended, 30 U.S.C. § 181 (1976), and regulations promulgated thereunder (43 CFR Part 3100). In the drawing that ensued in February 1980 the entry card of Pauline C. Lebsack was selected first. Thereafter, BLM asked the Geological Survey (Survey) for a determination as to whether the parcel was within a known geologic structure. In a memorandum dated April 2, 1980, Survey reported to BLM

that the parcel is within the undefined Altamount-Bluebell known geologic structure, effective April 1, 1980. Accordingly, BLM issued a decision, dated May 28, 1980, rejecting Ms. Lebsack's offer to lease on the ground that, insofar as the land in question is located within a known geologic structure, it may be leased only by competitive bidding. Ms. Lebsack has appealed that decision.

In her appeal, appellant argues that the rejection was illegally retroactive because the drawing was held before Survey made its determination. She also argued that she abided by "all rules and regulations in effect at the time." She feels entitled to the lease because of that compliance and of the retroactive nature of BLM's action.

[1] The law, however, is clear. Land within a known geologic structure of a producing oil or gas field may be leased only after competitive bidding under the provisions of Part 3120 of 43 CFR, and appellant's noncompetitive lease offer is properly rejected where before the lease is actually issued, BLM determines that the land is within the known geologic structure of a producing oil or gas field. 30 U.S.C. § 226(b) (1976); 43 CFR 3101.1-1; 43 CFR 3100.7-2. Curtis Wheeler, 31 IBLA 221 (1977); Geral Beveridge, 14 IBLA 351, 81 I.D. 80 (1974). That appellant followed all the applicable rules and regulations in making her offer does not vitiate this conclusion. Clearly, appellant's offer could not have been processed otherwise. 1/ See Amerada Hess Co., 33 IBLA 293 (1978). The issue of retroactivity, urged by appellant, is without merit since the drawing of an offer for a noncompetitive oil and gas lease creates no vested rights in the offeror, and in the circumstances presented in the case at bar the offer was properly rejected. Guy W. Franson, 30 IBLA 123 (1977).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman
Administrative Judge

We concur:

Joan B. Thompson
Administrative Judge

James L. Burski
Administrative Judge

1/ We note that appellant has not challenged Survey's determination on the merits of the existence of a known geologic structure but has challenged merely the rejection resulting therefrom. Cf. William E. Frazier, Jr., 32 IBLA 320 (1977).

